

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FIFTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO: 9257 of 2004

Between:

- 1 G. Pulla Rao, S/o. Lingaiah,
Prop. Vijaya Auto Welding & Turning Works, D.No. 21-23-89, Governorpet,
Gopala Reddy Road, Opp: Ashoka Hotel, Vijayawada-2, Krishna District.
- 2 Sunkara Venkata Ravi Kumar, S/o. Veera Raghava Swamy,
Prop. Balaji Sweet Shop, D.No. 21-23-89, Governorpet,
Gopala Reddy Road, Opp: Ashoka Hotel, Vijayawada-2, Krishna District.

... PETITIONERS

AND

- 1 The Commissioner of Endowments, Tilak Road, Hyderabad.
- 2 The Deputy Commissioner of Endowments, Kakinada, East Godavari District.
- 3 The Assistant Commissioner of Endowments, Opp. Old Bus Stand,
Vijayawada -2, Krishna District.
- 4 The Executive Officer, Sri Venkata Janakiramam Choultry,
Department of Endowments, Gopala Reddy Road, Governorpet,
Vijayawada-2, Krishna District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the 4th respondent herein in trying to demolish the shops bearing D.No. 21-23-89 and D.No. 21-23-90 respectively situated at Governorpet, Gopala Reddy Road, Vijayawada - 2 of the 1st and 2nd petitioners herein without issuing following the due process of law, as illegal, improper, unjust and contrary to law and consequently direct the 4th respondent herein to follow the procedure prescribed by law and to follow the due process of law before demolishing the shops bearing D.No. 21-23-89 and D.No. 21-23-90 respectively situated at Governorpet, Gopala Reddy Road, Vijayawada-2 of the 1st and 2nd

petitioners herein, and pass such other order or orders, as this Honourable Court may deem fit and proper in the circumstances of the case, in the interest of justice.

For the Petitioner: MR.B.THIMOTHI, Advocate.

For the Respondent No.: GP FOR ENDOWMENTS

The Court Made the Following :

W.P.NO.9257 OF 2004

ORDER:

This writ petition is filed seeking a Writ of Mandamus, declaring the action of the 4th Respondent herein in trying to demolish the shops bearing D.No.21-23-89 and D.No.21-23-90 respectively of the petitioners 1 and 2 herein without issuing notice and without following due process of law, as illegal, improper, unjust and contrary to law and consequently direct the 4th Respondent to follow the due process of law.

It is not in dispute that the first and second petitioners, who are tenants of the 4th Respondent Devasthanam, were doing their business in the said premises on lease and the lease period expired on 31.05.2002, which was extended up to 31.12.2002, but they continued to be in possession of the property. Since the building which was constructed in the year 1917 was in a dilapidated condition, the 4th Respondent issued notice for dismantling by conducting public auction on 13.05.2003.

The auction report was submitted to the Commissioner, who approved the same in D. Dis. No. C3/23333/04 dated 22.05.2004. At that stage, the present writ petition is filed contending that the respondents without issuing any notice and without following the due procedure cannot evict the petitioners from the shop premises.

In the counter filed by the respondents it is said that notice was issued as contemplated under section 83 of the Endowments Act 30 of 1987 on expiry of the lease period for their eviction.

In view of the same, it is open for the respondents to obtain consent of the petitioners for facilitating demolition and construction of shops as agreed by the tenants for leasing the shops after reconstruction. It is open for the 4th Respondent to follow the procedure prescribed under section 83 of the Endowments Act and take possession of the property. Without following the said procedure petitioners cannot be dispossessed.

(A. GOPAL REDDY)

June 25, 2004

Dsk/Murthy

- 1 The Commissioner of Endowments, Tilak Road, Hyderabad.
- 2 The Deputy Commissioner of Endowments, Kakinada, East Godavari District.
- 3 The Assistant Commissioner of Endowments, Opp. Old Bus Stand,

Vijayawada -2, Krishna District.

- 4 The Executive Officer, Sri Venkata Janakiramam Choultry,
Department of Endowments, Gopala Reddy Road, Governorpet,
Vijayawada-2, Krishna District.

5. Two C.C.s to the G.P for Endowments, High Court Buildings, Hyderabad

(OUT)

6. Two C.D. Copies.